

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF WASHINGTON
8

9 JAMES BRANCH,

10 Plaintiff,

11 VS.

12 JAMES BARRETT,
13 WASHINGTON STATE PATROL
14 OFFICER HOYT, STATE OF
15 WASHINGTON, STATE OF
WASHINGTON PROSECUTOR'S
OFFICE, and COUNTY OF
WALLA WALLA,

16 Defendants.

NO. CV-10-5144-JPH

ORDER GRANTING MOTION TO
VOLUNTARILY DISMISS ACTION AND
STRIKING REPORT AND
RECOMMENDATION

17 On May 11, 2011, the undersigned judicial officer recommended dismissal of this
18 action for failure to prosecute as Mr. Branch had failed to complete and file a financial
19 affidavit as required by 28 U.S.C. § 1915(a)(1), or to pay the \$350.00 filing fee, to
20 commence this action. Rather than file objections, Mr. Branch submitted a letter stating
21 his desire to formerly withdraw his litigation without prejudice.

22 The court liberally construes this letter as a Motion to Voluntarily Dismiss the
23 Complaint pursuant to Rule 41(a), Federal Rules of Civil Procedure. Defendants have not
24 been served in this action. Accordingly, **IT IS ORDERED** Plaintiff's Motion (ECF No.
25 12) is **GRANTED** and the Complaint is **DISMISSED WITHOUT PREJUDICE**.

26 **IT IS FURTHER ORDERED** the District Court Executive shall **STRIKE** the
27 **ORDER GRANTING MOTION TO VOLUNTARILY DISMISS ACTION AND**
28 **STRIKING REPORT AND RECOMMENDATION -- 1**

1 Report and Recommendation to dismiss this action for failure to prosecute (ECF No. 11).

2 **IT IS SO ORDERED.** The District Court Executive is directed to enter this
3 Order, enter judgment, forward a copy to Plaintiff and close the file.

4 **DATED** this 10th day of June, 2011.

5 S/ James P. Hutton

6 JAMES P. HUTTON
7 UNITED STATES MAGISTRATE JUDGE